UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,318	06/28/2001	Shailesh S. Bavadekar	5181-91600	5078

7590 09/12/2005	EXAMINER
Robert C. Kowert	JAROENCHONWANIT, BUNJOB
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P.O. Box 398	ART UNIT PAPER NUMBER
Austin, TX 78767-1400	2143

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/894,318	BAVADEKAR, SHAILESH S.
	Examiner	Art Unit	
	Bunjob Jaroenchonwanit	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *6/6/05*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-87* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☒ Claim(s) *52-58* is/are allowed.

6) ☒ Claim(s) *1-16,20-28,40-49,51,59-69,73-82 and 84-87* is/are rejected.

7) ☒ Claim(s) *17-19,39,50,70-72 and 83* is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☐ All   b) ☐ Some *   c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *01/14/02*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

DETAILED ACTION

1.   This Office action is in response to the argument filed 6/9/05, in response to restriction applicant argued that the restriction is improper, since they have not contain mutual exclusive characteristic, are found persuasive. The restriction requirement is hereby withdrawn. All claims limitation, which are perhaps presented in a different terminology, phraseology of forms are considered analogous, hence all claims will interpreted as having similar or equivalent limitations. Claims 1-87 are pending for examination,. The rejection are as stated below.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3.   Claims 80-87 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 80-87 are not limited to tangible embodiment. In view of Applicant's disclosure, specification ¶115, the carrier medium is not limited to tangible embodiments, in stead being defined as including both tangible embodiments (e.g., storage media or memory media such as magnetic or optical media or CD-ROM or non-volatile) and intangible embodiment (e.g., digital signals, conveyed via a communication medium such as network and/or a wireless link). As such, the claims are not limited to statutory subject matter and are therefore non-statutory.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

5.   Claims 1-16, 20-28, 40-49, 51, 59-69, 73-82 and 84-87 are rejected under 35 U.S.C.

103(a) as being unpatentable over Erickson et al (US 6,412,009, "Erickson," hereafter) and

Cunningham et al (US 6,754,621, "Cunningham," hereafter).

6.   Regarding claim 1, Erickson discloses a method comprising:

establishing a transport protocol tunnel connection from a first node in a messaging

system to a second node in the messaging system (Erickson, Abstract, HTTP tunnel 128, node

126 and node 120, Fig. 3);

generating a messaging system message on the first node (Erickson, Abstract);

generating one or more transport protocol packets, wherein the one or more transport

protocol packets each includes at least a part of the messaging system message (Erickson,

message is transport via HTTP channel, inherently transport protocol packet is generated); and

transmitting the one or more transport protocol packets to the second node via the

transport protocol tunnel connection (Erickson, Abstract, HTTP tunnel 128, node 126 and node

110, Fig. 3); wherein the transport protocol tunnel connection provides full-duplex transmission

of messaging system messages between the first node and the second node (Erickson, bi

direction is duplex, Abstract).

Further, Erickson discloses the messages can be interleaved but it does not explicitly state

that the interleaving messages or transmitting messages are in the sequence of messages being

generated. However, transmitting message in according to generated sequence are routinely

practiced in the data network communication, for instance, Cunningham, in the same field of

endeavor, teaches tunneling messing system include mechanism for ensuring messages are

arranged in generated sequence (Cunningham, Col. 18, lines 42-55, Col. 15, lines 1-20).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the

invention was made to employ reordering messaging or packet as taught in Cunningham with

Erickson-Cunningham, with the motivation of ensuring reliability of messaging system, as

indicated in Cunningham.

7.   Regarding claims 2 and 15, Erickson-Cunningham inherently discloses storing the

messaging system message in a transmit buffer on the first node after said generating the

messaging system message on the first node, because at the time of invention was made output

buffering data is required for buffering between processor and network transport mechanism in

order to prevent sluggishness of bottom neck problems.

8.   Regarding claim 3, Erickson-Cunningham discloses the transport protocol tunnel

connection passes through a proxy server (Erickson, 20, Fig 1; Cunningham, Abstract, Col.3,

lines 20-25).

9.   Regarding claim 4, Erickson-Cunningham discloses transmitting the transport protocol

packets from the first node to the proxy server (Erickson, Fig.3, tunneling from unit 126 to unit

120; and transmitting the transport protocol packets from the proxy server to the second node

(Erickson, transmitting from unit 120 to unit 110) .

10.   Regarding claims 5-8, Erickson-Cunningham discloses the transport protocol tunnel

connection passes through at least one firewall (Erickson front page).

11.   Regarding claim 9, Erickson-Cunningham discloses the transport protocol tunnel

connection passes through a third node (Erickson, node 120, fig 3), and wherein, in said

transmitting the one or more transport protocol packets to the second node (Erickson, messages

is transmitted to and from either node 110 or 126, which at a given time interval could functional

as a second node), the method further comprises: transmitting the one or more transport protocol

packets to the third node (Erickson, messages are passed through node 120, i.e., a third node);

and the third node forwarding the one or more transport protocol packets to the second node

(Erickson, node 120 forwards messages between node 110 and 126, which interchangeably

functions as a first or a second node at a given time interval).

12.   Regarding claim 10, Erickson-Cunningham discloses the transport protocol packets are

forwarded to the second node via a Transmission Control Protocol (TCP) connection portion of

the transport protocol tunnel connection between the third node and the second node (Erickson

fig 2).

13.   Regarding claim 11, Erickson-Cunningham discloses the third node is a Web server

(Erickson, node 120, fig 3).

14.   Regarding claim 12, Erickson-Cunningham discloses the transport protocol tunnel

connection passes through a proxy server and a web server, and wherein said transmitting the

transport protocol packets to the second node via the transport protocol tunnel connection

comprises: transmitting the one or more transport protocol packets from the first node to the

proxy server; transmitting the one or more transport protocol packets from the proxy server to

the Web server; and the Web server forwarding the one or more transport protocol packets to the

second node (Erickson, Fig.3, web sever 121 and proxy, e.g., extension 132; Col.5, line 46-
Col.6, line 3).

15.   Regarding claim 13, Erickson-Cunningham discloses the transport protocol tunnel
connection passes through at least one firewall between the proxy server and the Web server
(Erickson, Fig.3)

16.   Regarding claim 14, Erickson-Cunningham discloses the transport protocol packets
include messaging system message sequence information, which would have been obvious to
one of ordinary skill in the art to used them to process any number of messaging system,since4 at
the time of the invention was made network computer does not limit to a particular number of
messaging system. Allowing messages sequence to be used with more than one system would be
a desirable choice of ordinary skill in the art to expand the system utility.

17.   Regarding claim 16, Erickson-Cunningham discloses receiving the transmitted one or
more transport protocol packets on the second node, as described above. Further, since
Erickson-Cunningham's teaching related to the user of TCP protocol, thus it its inherently
teaches acknowledgement is generated communication step between nodes.

18.   Regarding claims 20-29, recite inherent feature of using TCP, reliable protocol for
messaging transport, including using HTTP, which are also Erickson-Cunningham. To
generated and store message at the first, second or the third node using the existing protocol does
not render patentable distinct over Erickson-Cunningham.

19.   Regarding claim 30, Erickson-Cunningham discloses the transport protocol is one of
UDP (User Datagram Protocol), IrDA (Infrared Data Association), SNA (Systems Network
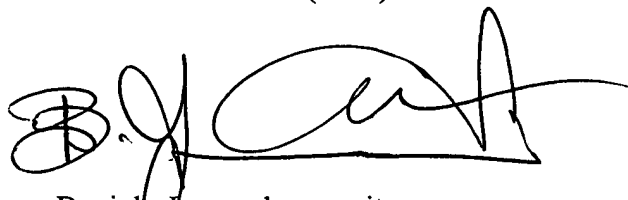Architecture), IPX (Internetwork Packet eXchange) and Bluetooth (Erickson, Front page).

20.   Claims 31-38, 40-49, 51, 59-69, 73-82 and 84-87 are analogous to claims 1-16, 20-30 are

also rejected by the same rationale.

21.   Claims 17-19, 39, 50, 70-72 and 83 are objected to as being dependent upon a rejected

base claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims.

22.   Claims 52-58 are allowed.

23.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Bunjob Jaroenchonwanit whose telephone number is (571) 272-

3913. The examiner can normally be reached on 8:00-17:00. If attempts to reach the examiner

by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571)

272-3923. The fax phone number for the organization where this application or proceeding is

assigned is 703-872-9306. Information regarding the status of an application may be obtained

from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For more

information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions

on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-

9197 (toll-free).

Bunjob Jaroenchonwanit
Primary Examiner
Art Unit 2143

/bj
8/13/05